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July 12, 2022

Via ECF

Hon. Kenneth M. Karas
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, NY 10601

Re: Stanbro v. Westchester County Health Care Corp., et al.
19-cv-10857

Stanbro v. C.O. Nadya Palou, et al.,
20-cv-01591

Your Honor:

The undersigned represents plaintiff in the above consolidated actions. I write in response to the July 11, 2022 letter from Mark Heinze, Esq., attorney for defendants Palou and Deal, seeking dismissal against those defendants of plaintiff's claims for 1) excessive force and 2) failure to intervene.

Defense counsel's letter appears to raise a strawman argument that plaintiff has adduced no evidence that Palou and Deal conspired with Leonardo to use excessive force against plaintiff. Plaintiff is not making any such allegation.

Plaintiff maintains only that Palou and Deal assisted Leonardo's use of excessive force, which the jury reasonably can find included applying pressure to plaintiff's neck for up to thirty seconds, not only by failing to intervene to stop that force, but also by holding plaintiff down during that use of force. While Palou and Deal certainly are entitled to proffer a benign explanation for their actions and inactions—including but not limited to that they were preoccupied in a reasonable attempt to restrain plaintiff—the jury is not required to accept that explanation.

Thank you.

Very truly yours,

Edward Sivin

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Cc: All parties (via ECF)